

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RODNEY MUSICH**  
Claimant

**APPEAL 21A-UI-15649-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 04/05/20**  
**Claimant: Appellant (2R)**

Iowa Code § 96.3(4) – Monetary Determination Correct  
Iowa Code § 96.4(4) – Monetary Eligibility

**STATEMENT OF THE CASE:**

Claimant filed an appeal June 9, 2021 (reference 08) that determined claimant's monetary eligibility (June 1, 2021) for regular unemployment insurance (UI) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on October 7, 2021. Claimant participated and was represented by attorney, Joe Basque. Claimant's exhibits were offered and admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant's monetary determination is correct.  
Whether claimant is monetarily eligible for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for benefits effective April 5, 2020. Claimant was paid \$13.00/ hour until he separated from AMVC in December 2020. Molded Products is the last place that claimant worked. Claimant worked for Steve's Repair. Claimant then worked for Molded Products beginning in October 2020. Claimant was paid \$10.00/hour and worked full time. The claimant's immediate supervisor was Mike Woolholder. Claimant was discharged from Molded Products in November or December 2020. Claimant had an older cousin, Rodney C. Musich, who worked at Molded Products at the same time as claimant. Both Rodney C. Musich's worked for the Harlan location.

Claimant presented evidence of wages at Molded Products, which were not included in the most recent monetary determination. The wages listed in the monetary record for those quarters are correct.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the monetary determination IS NOT correct and claimant IS monetarily eligible to receive benefits.

Iowa Code section 96.4(4)a-b-c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

(emphasis added)

A claimant's qualifying wages are those subject to contribution under a state employment security law or wages subject to tax under the federal Unemployment Tax Act. See Iowa Admin. Code r. 871-24.1(131), (132).

For the reasons that follow, the administrative law judge concludes the monetary record is not correct.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were

highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Iowa Admin. Code r. 871-24.1(11) provides:

*Base period.* The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

- a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or
- b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of  
dependents is:

The weekly benefit  
amount shall equal  
the following fraction  
of high quarter wages:

Subject to the  
following maximum  
percentage of the  
statewide average  
weekly wage.

0

1/23

53%

1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

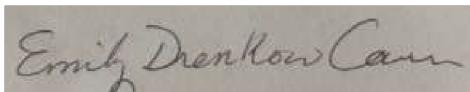
Since the wages from Molded Products were not reported for Rodney C. Musich under the correct social security number, those wages must be recorded. The employers in each case shall be notified of the claim identifying claimant with his current name as well as by the name used at the time of employment and shall have the opportunity to protest payment of benefits.

**DECISION:**

The June 1, 2021, monetary determination is incorrect. The wages as presented by the claimant shall be added to the base period wages and the claim shall be redetermined accordingly.

**REMAND:**

The unrecorded wage issue delineated in the findings of fact is remanded to the tax section of Iowa Workforce Development for addition of the wages according to the evidence.



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Emily Drenkow Carr  
Administrative Law Judge  
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November 10, 2021  
Decision Dated and Mailed

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